

**STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF MANAGED HEALTH CARE**

Order No. S-01-803

**ORDER UNDER SECTION 1344(a) OF THE HEALTH AND SAFETY CODE
RESCINDING PRIOR ORDER OF THE DIRECTOR**

Pursuant to Section 1344(a) of the Knox-Keene Health Care Service Plan Act of 1975, as amended (“Act”), Order No. L-01-703, issued on March 7, 2001, regarding exemption of Medicare+Choice contracts from certain provisions of the Act and waiver of certain provisions of Title 28 California Code of Regulations, is hereby rescinded.

On August 27, 2001, the final judgment was issued by the United States District Court, Central District of California, in the matter of California Association of Health Plans v. Daniel Zingale, Case No. 00-06803 RSWL (Mcx). This case and the final judgment relate to the federal law preemption of certain provisions of the Act and the regulations adopted pursuant to the Act. A copy of that final judgment is attached.

This Order shall remain in force and effect commencing on the date below until superseded by further Order of the Director, which may amend, modify or terminate this Order.

Dated: December 17, 2001
Sacramento, California

DANIEL ZINGALE
Director
Department of Managed Health Care

By: original signed by

JACK TONEY
Assistant Deputy Director
Office of Health Plan Oversight

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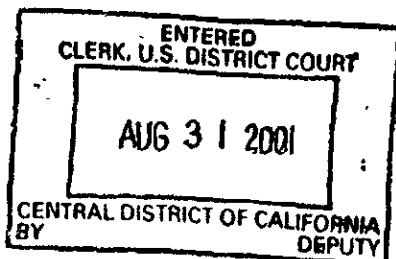
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CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CALIFORNIA ASSOCIATION OF HEALTH
PLANS California Non-Profit Mutual Benefit
Corporation,

Plaintiff,

Case No. 00-06803 RSWL (Mcx)

~~PROPOSED~~ JUDGMENT

Date: August 27, 2001

Time: 9:00 a.m.

Courtroom: 21

DANIEL ZINGALE, in his capacity as
DIRECTOR OF THE CALIFORNIA
DEPARTMENT OF MANAGED HEALTH
CARE and Does 1 through 10, inclusive,

Defendants.

✓ Docketed
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The motion for summary judgment of Plaintiff California Association of Health Plans came on for hearing on August 27, 2001 at 9:00 a.m. in Courtroom 21 of this Court. Based on all of the evidence and papers presented, including the argument of counsel, the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED, ADJUDGED AND DECREED as follows.

1. All California State standards relating to benefit requirements (including cost-sharing requirements), requirements relating to the inclusion or treatment of providers, coverage determinations (including related appeals and grievance procedures) and marketing materials as

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

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CENTRAL DISTRICT OF CALIF.

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1 they may concern health care service plans in California that participate in the Medicare +
 2 Choice program are superseded by section 1856(b)(3)(B) of the Social Security Act, as amended,
 3 42 U.S.C. § 1395w-26(b)(3)(B). Said State standards include the following:

4 A. State standards relating to benefit requirements (including cost-sharing
 5 requirements) specifically preempted by 42 U.S.C. § 1395w-26(b)(3)(B)(i): Cal. Health &
 6 Safety Code § ("HS") 1345(b)(1)-(7), 1363.01, 1367(h)-(j), 1367.05, 1367.09, 1367.2, 1367.3,
 7 1367.51, 1367.54, 1367.6, 1367.61, 1367.62, 1367.63, 1367.635, 1367.64, 1367.65, 1367.66,
 8 1367.665, 1367.67, 1367.68, 1367.71, 1367.8, 1367.9, 1367.11, ~~1367.19~~, 1367.20, 1367.21,
 9 1367.215, 1367.22, 1367.24, 1367.25, 1368.5, 1371.4, 1371.5, 1373(b)(c)(f)(h)(j), 1373.4,
 10 1373.14, 1373.96, 1373.14, 1374.5, 1374.56, 1374.7(a)(second sentence of that provision
 11 only), 1374.11, 1374.12, 1374.16, 1374.72 and 1383.15; 28 C.C.R. §§ 1300.67, 1300.67.1,
 12 1300.67.2, 1300.67.2.1, 1300.71.4 and ~~1300.80(b)(6)~~.

13 B. State standards relating to inclusion or treatment of providers specifically
 14 preempted by 42 U.S.C. § 1395w-26(b)(3)(B)(ii): HS 1366.4(b)(d), 1367.02, 1367.69,
 15 1367.695, 1371, 1371.2, 1371.35, 1373(h), 1373.3, 1373.65, 1373.7, 1373.8, 1373.9,
 16 1373.11, 1373.12, 1373.13, 1373.18, 1395.5 and 1395.6, ~~1300.80(b)(6)~~, ~~1367.10~~

17 C. State standards relating to coverage determinations including appeals and
 18 grievances specifically preempted by 42 U.S.C. § 1395w-26(b)(3)(B)(iii): HS 1363.5, 1367.01,
 19 1368, 1368.01, 1368.03, 1368.04, 1368.1, 1370.2, 1370.4, 1371.36, 1371.37, 1371.8, 1373(i),
 20 1373.19, 1373.20, 1373.21, 1374.30, 1374.31, 1374.32, 1374.33, 1374.34, 1374.35 and
 21 1399.55; 28 C.C.R. §§ 1300.68 and 1300.68.01, ~~1366.02(b)~~, ~~1300.80(b)(6)(c)~~

22 D. State standards relating to marketing materials and summaries and schedules of
 23 benefits regarding Medicare + Choice plans specifically preempted by 42 U.S.C. § 1395w-
 24 26(b)(3)(B)(iv): HS 1360, 1361, 1362, 1363(a) ^{but not (e), (f), (g)} ~~(e), (h)~~, 1363.05, 1363.1, 1364, 1367.05(b),
 25 ~~1367.10~~, ~~1368.02(b)~~, 1372, 1373, 1383.1(a)(second sentence only), 1395(a)(g)(h), 1395.5 and
 26 1395.6; 28 C.C.R. §§ 1300.61, 1300.61.3, 1300.63.1, 1300.63.2, 1300.65 and 1300.65.1.
 27 (Said laws and regulations subject to preemption under 42 U.S.C. § 1395w-26(b)(3)(B) will
 28 hereafter be referred to as the "Specifically Preempted Laws.")

IT IS SO ORDERED.

RONALD S. W. LEW

Hon. Ronald S.W. Lew
UNITED STATES DISTRICT JUDGE